

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/4/05

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES COGHILL, Ramras, Rokeberg, Kelly, McGuire, Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to child-in-need-of-aid proceedings; amending the construction of**
2 **statutes pertaining to children in need of aid; relating to guardianships; relating to the**
3 **confidentiality of investigations, court hearings, and public agency records and**
4 **information in child-in-need-of-aid matters and certain child protection matters, to**
5 **immunity regarding disclosure of information in child-in-need-of-aid matters and**
6 **certain child protection matters, to proceedings regarding voluntary relinquishment and**
7 **termination of a parent and child relationship, to eligibility for permanent fund**
8 **dividends for certain children in the custody of the state, and to juvenile delinquency**
9 **proceedings and placements; establishing a right to a trial by jury in termination of**
10 **parental rights proceedings; reestablishing and relating to a state citizens' review panel;**
11 **amending the duty to disclose information pertaining to a child in need of aid; relating**
12 **to disclosure of confidential or privileged information about children and families**

involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; relating to consent for the medication of children in state custody; prescribing the rights of family members related to child-in-need-of-aid cases and establishing a familial priority for adoption in certain child-in-need-of-aid cases; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending Rules 9 and 13, Alaska Adoption Rules; amending Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure; amending Rules 14 and 15, Rules of Probate Procedure; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 13.26.055 is amended to read:

Sec. 13.26.055. Court appointment of guardian of minor; qualifications; priority of minor's nominee and adult family member. (a) The court may appoint as guardian any person whose appointment would be in the best interests of the minor. **Except as provided in (b) of this section, the** [THE] court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor.

* **Sec. 2.** AS 13.26.055 is amended by adding a new subsection to read:

(b) If an adult family member is available and willing to serve as a guardian of a minor, the court shall appoint the adult family member as guardian unless

- (1) the court finds the appointment contrary to the best interests of the minor; and
- (2) the person is not nominated by the minor under (a).

* **Sec. 3.** AS 13.26 is amended by adding a new section to read:

Sec. 13.26.064. Guardianship after voluntary relinquishment; procedure. In addition to the applicable procedures under this chapter, a guardianship decree and review of a guardianship decree are governed by the procedures established under AS 25.23.180 and, for a child-in-need-of-aid, AS 47.10.089, pertaining to voluntary

1 relinquishment of parental rights and retaining of parental privileges in a guardianship
2 decree.

3 * **Sec. 4.** AS 25.23 is amended by adding a new section to read:

4 **Sec. 25.23.127. Adult family member preference to adopt.**

5 Notwithstanding a child's stated preference under AS 25.23.125 and 25.23.040(a)(5),
6 an adult family member who has had physical custody of a child for at least twelve
7 consecutive months when the parental rights to the child have been terminated under
8 AS 47.10.080(c)(3) shall be permitted to adopt the child before any other person. The
9 adult family member may exercise the right granted under this section by filing a
10 petition under AS 25.23.080. The court shall grant the adult family member's petition
11 unless the court finds good cause not to grant the petition. In this section, "adult
12 family member" has the meaning given in AS 47.10.990.

13 * **Sec. 5.** AS 25.23.180 is amended by adding new subsections to read:

14 (j) In a relinquishment of parental rights executed under (a) of this section, a
15 parent may retain privileges with respect to the child, including the ability to have
16 future contact, communication, and visitation with the child. A retained privilege
17 must be stated with specificity in writing, and, not less than 10 days after the
18 relinquishment is signed, the court may enter an order terminating parental rights if the
19 court finds that termination of parental rights under the terms of the agreement is in
20 the child's best interest. If a parent has retained one or more privileges, the court shall
21 incorporate the retained privileges into the termination order with a recommendation
22 that the retained privileges be incorporated in an adoption or legal guardianship
23 decree.

24 (k) A voluntary relinquishment may not be withdrawn and a termination order
25 may not be vacated on the ground that a retained privilege has been withheld from the
26 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
27 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
28 Procedure.

29 (l) After a termination order is entered, a person who has voluntarily
30 relinquished parental rights under this section may request a review hearing, upon a
31 showing of good cause, to seek enforcement or modification of or to vacate a privilege

1 retained in the termination order. The court may modify, enforce, or vacate the
2 retained privilege if the court finds, by clear and convincing evidence, that it is in the
3 best interest of the child to do so.

4 (m) After a termination order is entered and before the entry of an adoption or
5 legal guardianship decree, a prospective adoptive parent or a guardian of the child may
6 request, after providing notice as specified under this subsection, that the court decline
7 to incorporate a privilege retained in a termination order and recommended for
8 incorporation in an adoption or guardianship decree under (j) of this section. If the
9 person who has relinquished parental rights to the child who is the subject of the
10 adoption or guardianship decree did not waive rights to notice of adoption under (b) of
11 this section, the request made under this subsection may only be considered by the
12 court after providing at least 20 days' notice by certified mail to the last known address
13 of the person who has voluntarily relinquished parental rights to the child. The notice
14 under this subsection must describe the request and explain that the recipient of the
15 notice may submit a written statement under penalty of perjury to the court that the
16 recipient either agrees with or opposes the request. The notice must also include the
17 deadline for submitting the statement and the mailing address of the court. The court
18 may decline to incorporate a retained privilege if the person who retained the privilege
19 agrees with the request or if the court finds that it is in the child's best interest.

20 (n) After a termination order is entered and before the entry of an adoption
21 decree, a person who voluntarily relinquished parental rights to a child under this
22 section may request a review hearing, upon a showing of good cause, to vacate the
23 termination order and reinstate parental rights relating to that child. A court shall
24 vacate a termination order if the person shows, by clear and convincing evidence, that
25 reinstatement of parental rights is in the best interest of the child and that the person is
26 rehabilitated and capable of providing the care and guidance that will serve the moral,
27 emotional, mental, and physical welfare of the child.

28 (o) A person who relinquished parental rights is entitled to the appointment of
29 an attorney if a hearing is requested under (l), (m), or (n) of this section to the same
30 extent as if the parent's rights had not been terminated in a child-in-need-of-aid
31 proceeding.

1 * **Sec. 6.** AS 43.23.005(f) is amended to read:

2 (f) **The** [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE]
3 commissioner may waive the requirement of (a)(4) of this section for an individual
4 absent from the state

5 **(1) in a time of national military emergency** under military orders
6 while serving in the armed forces of the United States, or for the spouse and
7 dependents of that individual; **or**

8 **(2) while in the custody of the Department of Health and Social**
9 **Services in accordance with a court order under AS 47.10 or AS 47.12 and placed**
10 **outside of the state by the Department of Health and Social Services for purposes**
11 **of medical or behavioral treatment.**

12 * **Sec. 7.** AS 47.10.005 is amended to read:

13 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be
14 liberally construed to

15 **(1) achieve** the end that a child coming within the jurisdiction of the
16 court under this chapter may receive the care, guidance, treatment, and control that
17 will promote the child's welfare **and the parents' participation in the upbringing of**
18 **the child;**

19 **(2) recognize that a parent possesses inherent individual rights to**
20 **direct and control the education and upbringing of the parent's child;**

21 **(3) promote and protect the safety, welfare, health, and good of**
22 **children, grandparents, and family members living in the state;**

23 **(4) benefit future generations; and**

24 **(5) bring fairness and equality to biological family members and**
25 **children in the state.**

26 * **Sec. 8.** AS 47.10.020(a) is amended to read:

27 (a) Whenever circumstances subject a child to the jurisdiction of the court
28 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency
29 to make a preliminary inquiry and report for the information of the court to determine
30 whether the best interests of the child require that further action be taken. **The court**
31 **shall make the appointment on its own motion or at the request of a person or**

1 agency having knowledge of the child's circumstances. If, under this subsection,
 2 the court appoints a person or agency to make a preliminary inquiry and to report to it,
 3 or if the department is conducting an investigation of a report of child abuse or
 4 neglect, the court may issue any orders necessary to aid the person, the agency,
 5 or the department in its investigation or in making the preliminary inquiry and
 6 report. Upon [THEN, UPON THE] receipt of the report under this subsection, the
 7 court may

8 (1) close the matter without a court hearing;

9 (2) determine whether the best interests of the child require that further
 10 action be taken; or

11 (3) authorize the person or agency having knowledge of the facts of the
 12 case to file with the court a petition setting out the facts.

13 * **Sec. 9.** AS 47.10.020 is amended by adding a new subsection to read:

14 (e) Nothing in this section requires the department to obtain authorization
 15 from the court before

16 (1) conducting an investigation of a report of child abuse or neglect; or

17 (2) filing a petition.

18 * **Sec. 10.** AS 47.10 is amended by adding a new section to read:

19 **Sec. 47.10.065. Right to demand jury trial in certain cases.** A party has the
 20 right to demand a jury trial for a hearing on a petition to terminate parental rights
 21 under AS 47.10.080(o) or 47.10.088. If a hearing to adjudicate whether a child is a
 22 child in need of aid under AS 47.10.011 is consolidated with a hearing on a petition to
 23 terminate parental rights, the right to a jury trial under this section applies only to the
 24 issue of whether parental rights should be terminated after the court enters a finding
 25 under AS 47.10.080(a). In this section, "party" has the meaning given in Rule 2,
 26 Alaska Child in Need of Aid Rules of Procedure.

27 * **Sec. 11.** AS 47.10.070(a) is amended to read:

28 (a) The court may conduct the hearing on the petition in an informal manner.
 29 The court shall give notice of the hearing to the department, and it may send a
 30 representative to the hearing. The court shall also transmit a copy of the petition to the
 31 department. The department shall send notice of the hearing to the persons for whom

notice is required under AS 47.10.030(b) and to each grandparent of the child entitled to notice under AS 47.10.030(d). The department and the persons to whom the department must send notice of the hearing are entitled to be heard at the hearing. **Except as provided in (c) of this section, and unless prohibited by federal or state law, court order, or court rule, a hearing is open to the public** [HOWEVER, THE COURT MAY LIMIT THE PRESENCE OF THE FOSTER PARENT OR OTHER OUT-OF-HOME CARE PROVIDER AND OF ANY GRANDPARENT OF THE CHILD TO THE TIME DURING WHICH THE PERSON'S TESTIMONY IS BEING GIVEN IF IT IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE DETRIMENTAL TO THE CHILD. THE PUBLIC SHALL BE EXCLUDED FROM THE HEARING, BUT THE COURT, IN ITS DISCRETION, MAY PERMIT INDIVIDUALS TO ATTEND A HEARING IF THEIR ATTENDANCE IS COMPATIBLE WITH THE BEST INTERESTS OF THE CHILD].

* **Sec. 12.** AS 47.10.070 is amended by adding new subsections to read:

(c) Except as provided in (e) of this section, the following hearings in child-in-need-of-aid cases are closed to the public:

(1) the initial court hearing after the filing of a petition to commence the child-in-need-of-aid case;

(2) a hearing following the initial hearing in which a parent, child, or other party to the case is present but has not had an opportunity to obtain legal representation;

(3) a hearing, or a part of a hearing, for which the court issues a written order finding that allowing the hearing, or part of the hearing, to be open to the public would reasonably be expected to

(A) stigmatize or be emotionally damaging to a child;

(B) inhibit a child's testimony in that hearing;

(C) disclose matters otherwise required to be kept confidential by state or federal statute or regulation, court order, or court rule; or

(D) interfere with a criminal investigation or proceeding or a

1 criminal defendant's right to a fair trial in a criminal proceeding; before ruling
 2 on a request under this subparagraph, the court shall give notice and an
 3 opportunity to be heard to the state or a municipal agency that is assigned to
 4 the criminal investigation or to the prosecuting attorney.

5 (d) If a hearing, or part of a hearing, in a child-in-need-of-aid case is not
 6 closed under (c) of this section, the court shall hear in camera any information offered
 7 regarding the location, or readily leading to the location, of a parent, child, or other
 8 party to the case who is a victim of domestic violence. Access to testimony heard in
 9 camera under this subsection is limited to the court and authorized court personnel.

10 (e) The grandparents of the child and the foster parents or other out-of-home
 11 care provider may attend hearings that are otherwise closed to the public under (c) of
 12 this section. However, the court shall limit the presence of these persons in a hearing
 13 closed to the public to the time during which the person's testimony is being given if
 14 the court determines that the limitation is necessary under (c)(3) of this section. In this
 15 subsection, "out-of-home care provider" means an agency or person, other than the
 16 child's legal parents, with whom a child who is in the custody of the state under
 17 AS 47.10.080(c)(1) or (3), 47.10.142, or AS 47.14.100(c) is currently placed; "agency
 18 or person" includes a foster parent, an adult family member other than a parent, a
 19 person who has petitioned for adoption of the child, and a residential child care
 20 facility.

21 (f) Notwithstanding any other provision of this chapter, a person attending a
 22 hearing open to the public may not disclose a name, picture, or other information that
 23 would readily lead to the identification of a child who is the subject of the child-in-
 24 need-of-aid case. At the beginning of the hearing, the court shall issue an order
 25 specifying the restrictions necessary to comply with this subsection. If a person
 26 violates the order, the court may impose any appropriate sanction, including contempt
 27 and closure of any further hearings in the case to the person.

28 (g) Nothing contained in this section limits the rights of an adult family
 29 member under this title.

30 * **Sec. 13.** AS 47.10.080(c) is amended to read:

31 (c) If the court finds that the child is a child in need of aid, the court shall

(1) order the child committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event **not to extend** past the date the child becomes 19 years of age, except that the department or the child's guardian ad litem may petition for and the court may grant in a hearing

(A) one-year extensions of commitment that do not extend beyond the child's 19th birthday if the extension is in the best interests of the child; and

(B) an additional one-year period of state custody past [AGE] 19 **years of age** if the continued state custody is in the best interests of the person and the person consents to it;

(2) order the child released to a parent, **adult family member** [RELATIVE], or guardian of the child or to another suitable person, and, in appropriate cases, order the parent, **adult family member** [RELATIVE], guardian, or other person to provide medical or other care and treatment; if the court releases the child, it shall direct the department to supervise the care and treatment given to the child, but the court may dispense with the department's supervision if the court finds that the adult to whom the child is released will adequately care for the child without supervision; the department's supervision may not exceed two years or in any event extend past the date the child reaches [AGE] 19 **years of age**, except that the department or the child's guardian ad litem may petition for and the court may grant in a hearing

(A) one-year extensions of supervision that do not extend beyond the child's 19th birthday if the extensions are in the best interests of the child; and

(B) an additional one-year period of supervision past [AGE] 19 **years of age** if the continued supervision is in the best interests of the person and the person consents to it; or

(3) order, under the grounds specified in (o) of this section or AS 47.10.088, the termination of parental rights and responsibilities of one or both parents and commit the child to the custody of the department, and the department shall report quarterly to the court on efforts being made to find a permanent placement

1 for the child.

2 * **Sec. 14.** AS 47.10.080(*l*) is amended to read:

3 (l) Within 12 months after the date a child enters foster care as calculated
4 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and
5 permanent plan developed in the hearing are governed by the following provisions:

6 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
7 this section are also entitled to be heard at the hearing held under this subsection;

8 (2) when establishing the permanent plan for the child, the court shall
9 make appropriate written findings, including findings related to whether

10 (A) and when the child should be returned to the parent or
11 guardian;

12 (B) the child should be placed for adoption or legal
13 guardianship and whether a petition for termination of parental rights should be
14 filed by the department; and

15 (C) the child should be placed in another planned, permanent
16 living arrangement and what steps are necessary to achieve the new
17 arrangement;

18 (3) if the court is unable to make a finding required under (2) of this
19 subsection, the court shall hold another hearing within a reasonable period of time;

20 (4) in addition to the findings required by (2) of this subsection, the
21 court shall also make appropriate written findings related to

22 (A) whether the department has made the reasonable efforts
23 required under AS 47.10.086 to offer appropriate family support services to
24 remedy the parent's or guardian's conduct or conditions in the home that made
25 the child a child in need of aid under this chapter;

26 (B) whether the parent or guardian has made substantial
27 progress to remedy the parent's or guardian's conduct or conditions in the home
28 that made the child a child in need of aid under this chapter; [AND]

29 (C) if the permanent plan is for the child to remain in out-of-
30 home-care, whether the child's out-of-home placement continues to be
31 appropriate and in the best interests of the child; **and**

**(D) whether the department has made reasonable efforts to
finalize the permanent plan for the child;**

(5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan; if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department.

* **Sec. 15.** AS 47.10.080(p) is amended to read:

(p) If a child is removed from the parental home, the department shall provide reasonable visitation between the child and the child's parents, guardian, and family. When determining what constitutes reasonable visitation with a family member, the department shall consider the nature and quality of the relationship that existed between the child and the family member before the child was committed to the custody of the department. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents, guardian, or family members if there is clear and convincing evidence that visits are not in the child's best interests. **If the department denies visitation to a parent or family member of a child, the department shall inform the parent or family member of a reason for the denial and of the parent's or family member's right to request a review hearing as an interested person.** A parent, family member, or guardian who is denied visitation may request a review hearing. **A non-party adult family member requesting a review hearing under this subsection is not eligible for publicly appointed legal counsel.**

* **Sec. 16.** AS 47.10.080 is amended by adding new subsections to read:

(t) The court or a jury, if a jury trial is requested, may not terminate parental rights solely on the basis that the parent did not complete treatment required of the parent by the department for reunification with the child if the treatment required was unavailable to the parent and the department did not provide the treatment.

(u) For a child who is placed in foster care, when the department finds that it is in the best interest of a child and that the foster family will not be placed in undue risk of harm, the department shall require foster parents to provide regular

opportunities for visitation with the child by the parents of the child and encourage foster parents to serve as mentors for facilitating family reunification.

(v) A hearing conducted under this section is open to the public unless an exception provided in AS 47.10.070(c) applies to make the hearing closed to the public or unless prohibited by federal or state statute or regulation.

* **Sec. 17.** AS 47.10.084(c) is amended to read:

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 25.20.025, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. **In this subsection, "major medical treatment" includes the administration of medication used to treat a mental health disorder.**

* **Sec. 18.** AS 47.10.088(i) is amended to read:

(i) The department shall concurrently identify, recruit, process, and approve a qualified person or family for an adoption whenever a petition to terminate a parent's rights to a child is filed. **Before approving a placement of the child for adoption under this chapter, the department shall attempt to locate all living adult family members of the child and to investigate the adult family members' ability to care for the child. The department shall provide to all adult family members of the child located by the department written notice of the adult family members' rights under this chapter and of the procedures necessary to gain custody of the child. The department may not approve an adoption by a person or family who is not related to the child if an adult family member of the child requests that the department approve the adult family member for the adoption, unless the adoption by the child's adult family member is not in the child's best interest, is prohibited under (l) of this section, or is otherwise contrary to federal or state law.** If the court issues an order to terminate under (j) of this section, the department

1 shall report within 30 days on the efforts being made to recruit a permanent placement
 2 for the child if a permanent placement was not approved at the time of the trial under
 3 (j) of this section. The report must document recruitment efforts made for the child.

4 * **Sec. 19.** AS 47.10.088 is amended by adding new subsections to read:

5 (l) The department may not approve an adoption by an adult family member if
 6 the department

7 (1) makes a determination, supported by clear and convincing
 8 evidence, that adoption of the child by the adult family member will result in physical
 9 or mental injury to the child; in making that determination, poverty, including
 10 inadequate or crowded housing, on the part of the adult family member is not
 11 considered prima facie evidence that physical or mental injury to the child will occur;

12 (2) determines that a member of the adult family member's household
 13 who is 12 years of age or older was the perpetrator in a substantiated report of abuse
 14 under AS 47.17; or

15 (3) determines that a member of the adult family member's household
 16 who is 12 years of age or older is under arrest for, is charged with, has been convicted
 17 of, or has been found not guilty by reason of insanity of, a serious offense;
 18 notwithstanding this paragraph, the department may approve an adoption by the adult
 19 family member if the adult family member demonstrates to the satisfaction of the
 20 department that conduct described in this paragraph occurred at least five years before
 21 the intended adoption and the conduct

22 (A) did not involve a victim who was under 18 years of age at
 23 the time of the conduct;

24 (B) was not a crime of domestic violence as defined in
 25 AS 18.66.990; and

26 (C) was not a violent crime under AS 11.41.100 - 11.41.455 or
 27 a law or ordinance of another jurisdiction having similar elements.

28 (m) For the purpose of determining whether the home of an adult family
 29 member meets the requirements for adoption of the child, the department shall conduct
 30 a criminal background check from state and national criminal justice information
 31 available under AS 12.62. The department may conduct a fingerprint background

1 check on any member of the adult family member's household who is 12 years of age
 2 or older when the adult family member requests adoption of the child. For the
 3 purposes of obtaining criminal justice information under this subsection, the
 4 department is a criminal justice agency conducting a criminal justice activity under
 5 AS 12.62.

6 (n) An adult family member who is denied a request for an adoption under (i)
 7 of this section may request a review hearing by the court. If the department denies a
 8 request by an adult family member to adopt a child under (i) of this section, the
 9 department shall inform the adult family member of the reason for the denial and of
 10 the adult family member's right to request a review hearing. A non-party adult family
 11 member requesting a review hearing under this subsection is not eligible for publicly
 12 appointed legal counsel.

13 (o) A trial or hearing conducted under this section is open to the public unless
 14 an exception provided in AS 47.10.070(c) applies to make the trial or hearing closed
 15 to the public. The court shall uphold the department's decision under this section if the
 16 court finds, by clear and convincing evidence, that the decision is in the best interest of
 17 the child and otherwise complies with the requirements of this section.

18 * **Sec. 20.** AS 47.10 is amended by adding a new section to read:

19 **Sec. 47.10.089. Voluntary relinquishment of parental rights and**
 20 **responsibilities.** (a) When a child is committed to the custody of the department
 21 under AS 47.10.080(c)(1) or (3) or released under AS 47.10.080(c)(2), the rights of a
 22 parent with respect to the child, including parental rights to control the child, to
 23 withhold consent to an adoption, or to receive notice of a hearing on a petition for
 24 adoption, may be voluntarily relinquished to the department and the relationship of
 25 parent and child terminated in a proceeding as provided under this section.

26 (b) A voluntary relinquishment must be in writing and signed by a parent,
 27 regardless of the age of the parent, in the presence of a representative of the
 28 department or in the presence of a court of competent jurisdiction with the knowledge
 29 and approval of the department. A copy of the signed relinquishment shall be given to
 30 the parent.

31 (c) A voluntary relinquishment may be withdrawn within 10 days after it is

1 signed. The relinquishment is invalid unless the relinquishment contains the right of
2 withdrawal as specified under this subsection.

3 (d) A parent may retain privileges with respect to the child, including the
4 ability to have future contact, communication, and visitation with the child in a
5 voluntary relinquishment executed under this section. A retained privilege must be in
6 writing and stated with specificity.

7 (e) Not less than 10 days after a voluntary relinquishment is signed, the court
8 shall enter an order terminating parental rights if the court determines that termination
9 of parental rights under the terms of the relinquishment is in the child's best interest.
10 If a parent has retained one or more privileges under (d) of this section, the court shall
11 incorporate the retained privileges in the termination order with a recommendation
12 that the retained privileges be incorporated in an adoption or legal guardianship
13 decree.

14 (f) A voluntary relinquishment may not be withdrawn and a termination order
15 may not be vacated on the ground that a retained privilege has been withheld from the
16 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
17 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
18 Procedure.

19 (g) After a termination order is entered, a person who has voluntarily
20 relinquished parental rights under this section may request a review hearing, upon a
21 showing of good cause, to seek enforcement or modification of or to vacate a privilege
22 retained in the termination order. The court may modify, enforce, or vacate the
23 retained privilege if the court finds, by clear and convincing evidence, that it is in the
24 best interest of the child to do so.

25 (h) After a termination order is entered and before the entry of an adoption or
26 legal guardianship decree, a person who voluntarily relinquished parental rights to a
27 child under this section may request a review hearing, upon a showing of good cause,
28 to vacate the termination order and reinstate parental rights relating to that child. A
29 court shall vacate a termination order if the person shows, by clear and convincing
30 evidence, that reinstatement of parental rights is in the best interest of the child and
31 that the person is rehabilitated and capable of providing the care and guidance that will

1 serve the moral, emotional, mental, and physical welfare of the child.

2 (i) A person who relinquished parental rights is entitled to the appointment of
3 an attorney if a hearing is requested under (g), (h), or (j) of this section to the same
4 extent as if the parent's rights had not been terminated in a child-in-need-of-aid
5 proceeding.

6 (j) After a termination order is entered and before the entry of an adoption or
7 legal guardianship decree, a prospective adoptive parent or a guardian of the child may
8 request, after providing notice as specified under this subsection, that the court decline
9 to incorporate a privilege retained in a termination order and recommended for
10 incorporation in an adoption or guardianship decree under (e) of this section. If the
11 person who has relinquished parental rights to the child who is the subject of the
12 adoption or guardianship decree did not waive rights to notice of adoption under (a) of
13 this section, the request made under this subsection may only be considered by the
14 court after providing at least 20 days' notice by certified mail to the last known address
15 of the person who has voluntarily relinquished parental rights to the child. The notice
16 under this subsection must describe the request and explain that the recipient of the
17 notice may submit a written statement under penalty of perjury to the court that the
18 recipient either agrees with or opposes the request. The notice must also include the
19 deadline for submitting the statement and the mailing address of the court. The court
20 may decline to incorporate a retained privilege if the person who retained the privilege
21 agrees with the request or if the court finds that it is in the child's best interest.

22 * **Sec. 21.** AS 47.10.090(c) is amended to read:

23 (c) Within 30 days after [OF] the date of a child's [MINOR'S] 18th birthday
24 or, if the court retains jurisdiction of a child [MINOR] past the child's [MINOR'S]
25 18th birthday, within 30 days after [OF] the date on which the court releases
26 jurisdiction over the child [MINOR], the court shall order all the court's official
27 records pertaining to that child [MINOR] in a proceeding under this chapter sealed. A
28 person may not use these sealed records unless authorized by order of [FOR ANY
29 PURPOSE EXCEPT THAT] the court upon a finding of [MAY ORDER THEIR
30 USE FOR] good cause [SHOWN].

31 * **Sec. 22.** AS 47.10.090(d) is amended to read:

(d) **Except as provided in AS 47.10.070, 47.10.080(v), and 47.10.093, the [THE] name or picture of a child [MINOR] under the jurisdiction of the court may not be made public in connection with the child's [MINOR'S] status as a child in need of aid unless authorized by order of the court or unless to implement the permanency plan for a child after all parental rights of custody have been terminated. This subsection does not prohibit the release of aggregate information for statistical or other informational purposes if the identity of any particular person is not revealed by the release.**

* **Sec. 23.** AS 47.10.092(a) is amended to read:

(a) Notwithstanding AS 47.10.090 and 47.10.093, **an adult family member** [A PARENT] or legal guardian of a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose confidential or privileged information about the child or the child's family, including information that has been lawfully obtained from agency or court files, to the governor, the lieutenant governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general, and the **commissioner** [COMMISSIONERS] of health and social services, administration, or public safety, or an employee of these persons, for review or use in their official capacities. The **Department of Health and Social Services and the Department of Administration** [DEPARTMENT] shall disclose additional confidential or privileged information, **excluding privileged attorney-client information and the name and other identifying information of a mandatory reporter under AS 47.17,** and make copies of documents available for inspection about the child or the child's family to these state officials or employees for review or use in their official capacities upon request of the official or employee and submission of satisfactory evidence that a parent or legal guardian of the child has requested the state official's assistance in the case as part of the official's duties. A person to whom disclosure is made under this section may not disclose confidential or privileged information, **including attorney-client information if the person has an attorney-client relationship with the child or the child's family,** about the child or the child's family to a person not authorized to receive it.

* **Sec. 24.** AS 47.10.092 is amended by adding new subsections to read:

(d) The departments' obligations under (a) of this section to disclose information and provide copies, and the obligations not to disclose certain confidential or privileged information, remain in effect throughout the period that the child is in the custody of the department, including after the parent's parental rights have been terminated with respect to the child, unless another parent or legal guardian of the child subsequently files a notice with the Department of Health and Social Services that the assistance of the state official or employee is no longer requested.

(e) The Department of Health and Social Services shall notify an official identified under (a) of this section of the opportunity for a parent to file a grievance under AS 47.10.098 when the official is denied access to all or part of a requested record.

* **Sec. 25.** AS 47.10.093(a) is amended to read:

(a) Except as specified in AS 47.10.092 and in (b) - (g) and (k) - (n) [(b) - (g)] of this section and as provided in a notice to all parties in a child-in-need-of-aid proceeding under applicable court rules, all information and social records pertaining to a child [MINOR] who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty are privileged and may not be disclosed directly or indirectly to anyone without a court order.

* **Sec. 26.** AS 47.10.093(b) is amended to read:

(b) A state or municipal agency or employee shall disclose appropriate confidential information regarding a case to

(1) a guardian ad litem appointed by the court;

(2) a person or an agency requested by the department or the child's legal custodian to provide consultation or services for a child who is subject to the jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of the consultation or services;

(3) a foster parent [PARENTS] or relative [RELATIVES] with whom the child is placed by the department as [MAY BE] necessary to enable the foster parent [PARENTS] or relative [RELATIVES] to provide appropriate care to [FOR] the child [WHO IS THE SUBJECT OF THE CASE], to protect the safety of

1 the child [WHO IS THE SUBJECT OF THE CASE], and to protect the safety and
 2 property of family members and visitors of the foster **parent** [PARENTS] or **relative**
 3 [RELATIVES];

4 (4) **a** school **official** [OFFICIALS] as [MAY BE] necessary to enable
 5 the school to provide appropriate counseling and support services to **a** [THE] child
 6 who is the subject of the case, to protect the safety of the child [WHO IS THE
 7 SUBJECT OF THE CASE], and to protect the safety of school students and staff;

8 (5) a governmental agency as [MAY BE] necessary to obtain that
 9 agency's assistance for the department in its investigation or to obtain physical custody
 10 of a child;

11 (6) a law enforcement agency of this state or another jurisdiction as
 12 [MAY BE] necessary for the protection of any child or for actions by that agency to
 13 protect the public safety;

14 (7) **a member** [MEMBERS] of a multidisciplinary child protection
 15 team created under AS 47.14.300 as [MAY BE] necessary for the performance of **the**
 16 **member's** [THEIR] duties;

17 (8) the state medical examiner under AS 12.65 as [MAY BE]
 18 necessary for the performance of the duties of the state medical examiner;

19 (9) a person who has made a report of harm as required by
 20 AS 47.17.020 to inform the person that the investigation was completed and of action
 21 taken to protect the child who was the subject of the report; [AND]

22 (10) the child support services agency established in AS 25.27.010 as
 23 [MAY BE] necessary to establish and collect child support for a child who is a child in
 24 need of aid under this chapter;

25 **(11) a caregiver of a child or an entity responsible for ensuring the**
 26 **safety of children as necessary to protect the safety of a child; and**

27 **(12) a review panel established by the department, the legislature,**
 28 **or the governor for the purpose of reviewing the actions taken by the department**
 29 **in a specific case.**

30 * Sec. 27. AS 47.10.093(c) is repealed and reenacted to read:

31 (c) A state or municipal law enforcement agency shall disclose information

1 regarding a case that is needed by the person or agency charged with making a
2 preliminary investigation for the information of the court under AS 47.10.020.

3 * **Sec. 28.** AS 47.10.093(f) is amended to read:

4 (f) The department may release to a person with a legitimate interest
5 confidential information relating to children [MINORS] not subject to the
6 jurisdiction of the court under AS 47.10.010. [THE DEPARTMENT SHALL ADOPT
7 REGULATIONS GOVERNING THE RELEASE OF INFORMATION AND
8 IDENTIFYING A SUFFICIENT LEGITIMATE INTEREST.]

9 * **Sec. 29.** AS 47.10.093(g) is amended to read:

10 (g) The department and affected law enforcement agencies shall work with
11 school districts and private schools to develop procedures for the disclosure of
12 confidential information to a school official [OFFICIALS] under (b)(4) of this
13 section. The procedures must provide a method for informing the principal or the
14 principal's designee of the school that the student attends as soon as it is reasonably
15 practicable.

16 * **Sec. 30.** AS 47.10.093 is amended by adding new subsections to read:

17 (k) The Department of Health and Social Services and the Department of
18 Administration may disclose to the public, upon request, confidential information, as
19 set out in (l) of this section, when

20 (1) the parent or guardian of a child who is the subject of a report of
21 harm under AS 47.17 has made a public disclosure concerning the department's
22 involvement with the family;

23 (2) the alleged perpetrator named in a report of harm under AS 47.17
24 has been charged with a crime concerning the alleged abuse or neglect; or

25 (3) a report of harm under AS 47.17 has resulted in the fatality or near
26 fatality of that child.

27 (l) The type of information that may be publicly disclosed under (k) of this
28 section is information related to the determination, if any, made by the department
29 regarding the validity of a report of harm under AS 47.17 and the department's
30 activities arising from the department's investigation of the report. The department

31 (1) may withhold disclosure of the child's name, picture, or other

1 information that would readily lead to the identification of the child if the department
 2 determines that the disclosure would be contrary to the best interests of the child, the
 3 child's siblings, or other children in the child's household; or

4 (2) after consultation with a prosecuting attorney, may withhold
 5 disclosure of information that would reasonably be expected to interfere with a
 6 criminal investigation or proceeding or a criminal defendant's right to a fair trial in a
 7 criminal proceeding.

8 (m) Except for a disclosure made under (k) of this section, a person to whom
 9 disclosure is made under this section may not disclose confidential information about
 10 the child or the child's family to a person not authorized to receive it.

11 (n) The Department of Health and Social Services and the Department of
 12 Administration may adopt regulations to implement and interpret the duties of the
 13 respective department under this section, including regulations governing the release
 14 of confidential information and identifying a sufficient legitimate interest under (f) of
 15 this section.

16 (o) A person may not bring an action for damages against the state, the
 17 commissioner, or the commissioner's designee based on the disclosure or
 18 nondisclosure of information under (k) of this section except for civil damages
 19 resulting from gross negligence or reckless or intentional misconduct.

20 * **Sec. 31.** AS 47.10 is amended by adding new sections to read:

21 **Sec. 47.10.098. Grievance procedure.** (a) The department shall develop, in
 22 regulation, a grievance procedure for a parent to file a complaint based on

23 (1) the application of a department policy or procedure under this
 24 chapter;

25 (2) compliance with this chapter or a regulation adopted under this
 26 chapter; or

27 (3) an act or failure to act by the department under this chapter.

28 (b) The department shall prepare and distribute to each parent of a child who
 29 is under the jurisdiction of the department a written copy of the grievance procedure
 30 developed under (a) of this section.

31 * **Sec. 32.** AS 47.10.960 is repealed and reenacted to read:

1 **Sec. 47.10.960. Civil liability.** Failure to comply with a provision of this title
2 does not constitute a basis for civil liability for damages.

3 * **Sec. 33.** AS 47.10.990(16) is amended to read:

4 (16) "mental health professional" has the meaning given in
5 AS 47.30.915, except that, if the child is placed in another state by the
6 department, "mental health professional" also includes a professional listed in
7 the definition of "mental health professional" in AS 47.30.915 who is not licensed
8 to practice by a board of this state but is licensed by a corresponding licensing
9 authority to practice in the state in which the child is placed;

10 * **Sec. 34.** AS 47.10.990 is amended by adding new paragraphs to read:

11 (28) "adult family member" means a person who is 18 years of age or
12 older and who is related to the child as the child's legal parent, grandparent, aunt,
13 uncle, or sibling;

14 (29) "family member" means a person of any age who is related to the
15 child as the child's legal parent, grandparent, aunt, uncle, or sibling;

16 (30) "near fatality" means physical injury or other harm, as certified by
17 a physician, caused by an act or omission that created a substantial risk of death.

18 * **Sec. 35.** AS 47.12.990(10) is amended to read:

19 (10) "mental health professional" has the meaning given in
20 AS 47.30.915, except that, if the minor is placed in another state by the
21 department, "mental health professional" also includes a professional listed in
22 the definition of "mental health professional" in AS 47.30.915 who is not licensed
23 to practice by a board of this state but is licensed by a corresponding licensing
24 authority to practice in the state in which the minor is placed;

25 * **Sec. 36.** AS 47.14.100(e) is amended to read:

26 (e) If an adult family member or a family friend [A CHILD MAY NOT BE
27 PLACED IN A FOSTER HOME OR IN THE CARE OF AN AGENCY OR
28 INSTITUTION PROVIDING CARE FOR CHILDREN IF A RELATIVE BY
29 BLOOD OR MARRIAGE] requests placement of the child in the [RELATIVE'S]
30 home of the adult family member or family friend, and the parent or guardian of
31 the child agrees to the placement, a child may not be placed in a foster home that

1 is not operated by the adult family member or family friend and may not be
 2 placed in the care of an agency or institution providing care for children.
 3 Nothing in this subsection waives the requirement that a family friend be licensed
 4 as a foster home before a child is place with a family friend. However, the
 5 department may retain custody of the child and provide for the child's [ITS]
 6 placement in the same manner as for other children if the department

7 (1) makes a determination, supported by clear and convincing
 8 evidence, that placement of the child with the adult family member or family friend
 9 [RELATIVE] will result in physical or mental injury; in making that determination,
 10 poverty, including inadequate or crowded housing, on the part of the adult family
 11 member or family friend [, BLOOD RELATIVE] is not considered prima facie
 12 evidence that physical or emotional damage to the child will occur; this determination
 13 may be appealed to the superior court to hear the matter de novo;

14 (2) determines that a member of an adult family member's or family
 15 friend's [THE RELATIVE'S] household who is 12 years of age or older was the
 16 perpetrator in a substantiated report of abuse under AS 47.17; [OR]

17 (3) determines that a member of an adult family member's or family
 18 friend's [THE RELATIVE'S] household who is 12 years of age or older is under
 19 arrest for, charged with, has been convicted of, or has been found not guilty by reason
 20 of insanity of, a serious offense; notwithstanding this paragraph, the department may
 21 place or continue the placement of a child at the adult family member's or family
 22 friend's [RELATIVE'S] home if the adult family member or family friend
 23 [RELATIVE] demonstrates to the satisfaction of the department that conduct
 24 described in this paragraph occurred at least five years before the intended placement
 25 and the conduct

26 (A) did not involve a victim who was under 18 years of age at
 27 the time of the conduct;

28 (B) was not a crime of domestic violence as defined in
 29 AS 18.66.990; and

30 (C) was not a violent crime under AS 11.41.100 - 11.41.455 or
 31 a law or ordinance of another jurisdiction having similar elements;

1 **(4) determines that placement under this section with an adult**
 2 **family member or a family friend is in the best interest of the child over the**
 3 **objection of the parent or guardian; or**

4 **(5) determines that the parent's or guardian's preference is not**
 5 **appropriate because placement of the child would not be in the child's best**
 6 **interest and the child would not be located near the parent for purposes of**
 7 **visitation or reunification.**

8 * **Sec. 37.** AS 47.14.100(f) is amended to read:

9 (f) If **an adult family member** [A BLOOD RELATIVE] of the child
 10 specified under (e) of this section exists and agrees that the child should be placed
 11 elsewhere, before placement elsewhere, the department shall fully communicate the
 12 nature of the placement proceedings to the **adult family member** [RELATIVE].
 13 Communication under this subsection shall be made in the **adult family member's**
 14 [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION
 15 OR IN (e) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR
 16 ADOPTIVE PURPOSES.]

17 * **Sec. 38.** AS 47.14 is amended by adding a new section to article 3 to read:

18 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within
 19 the department a Citizen Review Panel. The panel shall be composed of volunteer
 20 members who are broadly representative of the state, including members who have
 21 expertise in the prevention and treatment of child abuse and neglect.

22 (b) The panel shall meet not less than once every three months. Meetings may
 23 take place telephonically and shall be closed to the public.

24 * **Sec. 39.** AS 47.14 is amended by adding a new section to article 3 to read:

25 **Sec. 47.14.215. Duties of the state panel.** (a) The state panel shall evaluate
 26 the extent to which the department is effectively discharging its child protection
 27 responsibilities under

28 (1) the state plan submitted to the United States Department of Health
 29 and Human Services under 42 U.S.C. 5106a(b);

30 (2) child protection standards under federal and state laws; and

31 (3) any other criteria that the panel considers important to ensuring the

1 protection of children, including the level and efficiency of coordination of foster care
2 and adoption programs in the state and a review of child fatalities and near fatalities.

3 (b) In carrying out the responsibilities under (a) of this section, the state panel
4 shall examine the policies, procedures, and practices of the department, and, where
5 appropriate, evaluate specific cases of child abuse or neglect.

6 (c) The commissioner shall, by regulation, establish policies and procedures
7 necessary to carrying out the duties of the state panel under this section.

8 * **Sec. 40.** AS 47.14 is amended by adding a new section to article 3 read:

9 **Sec. 47.14.225. Cooperation with state panel.** (a) The department shall
10 provide the panel access to information on child abuse or neglect cases that is
11 necessary for the panel to carry out its duties under AS 47.14.215.

12 (b) The department shall serve as staff to the state panel as requested by the
13 panel members.

14 * **Sec. 41.** AS 47.14 is amended by adding a new section to article 3 to read:

15 **Sec. 47.14.235. Confidentiality.** The members and staff of the state panel
16 may not disclose to any person, including a government agency or official, records or
17 other information containing personally identifying or other information made
18 confidential under state or federal law about a child or a witnesses involved in a case
19 under review by the panel.

20 * **Sec. 42.** AS 47.14 is amended by adding a new section to article 3 to read:

21 **Sec. 47.14.245. Public outreach.** The state panel shall conduct public
22 outreach and gather public comment on current department procedures and practices
23 involving children and family services.

24 * **Sec. 43.** AS 47.14 is amended by adding a new section to article 3 to read:

25 **Sec. 47.14.255. Report.** (a) The state panel shall prepare and make available
26 to the governor, the legislature, and to the public an annual report containing a
27 summary of the activities of the panel conducted under AS 47.14.205 - 47.14.295 and
28 recommendations for the improvement of child protection services in the state.

29 (b) Not later than six months after the date on which the report is released
30 under (a) of this section, the department shall submit a written response to the report.
31 The department's response must include a description of whether and how the

department will incorporate the recommendations of the panel, where appropriate.

* **Sec. 44.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.265. Civil penalty for violation of AS 47.14.235. A violation under 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

* **Sec. 45.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.275. Immunity. A member of the state panel and a person who furnishes services to or advises the state panel is not liable for damages or other relief in an action involving the performance or failure to perform a duty or other activity of the state panel.

* **Sec. 46.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.295. Definitions. In AS 47.14.205 - 47.14.295,

(1) "adult family member" has the meaning given in AS 47.10.990;

(2) "near fatality" has the meaning given in AS 47.10.990;

(3) "state panel" means the Citizen Review Panel established under AS 47.14.205.

* **Sec. 47.** AS 47.17.025 is amended by adding a new subsection to read:

(c) Within 20 days after receiving a report of harm, whether or not the matter is referred to a local government agency, the department shall notify the person who made the report and who made a request to be notified, about the status of the investigation, without disclosing any confidential information.

* **Sec. 48.** AS 47.17.027(a) is amended to read:

(a) If the department or a law enforcement agency provides written certification to the child's school officials that (1) there is reasonable cause to suspect that the child has been abused or neglected by a person responsible for the child's welfare or as a result of conditions created by a person responsible for the child's welfare; (2) an interview at school is a necessary part of an investigation to determine whether the child has been abused or neglected; and (3) the interview at school is in the best interests of the child, school officials shall permit the child to be interviewed at school by the department or a law enforcement agency before notification of, or receiving permission from, the child's parent, guardian, or custodian. A school official shall be present during an interview at the school unless the child objects or the

department or law enforcement agency determines that the presence of the school official will interfere with the investigation. **The interview shall be conducted as required under AS 47.17.033.** Immediately after conducting an interview authorized under this section, and after informing the child of the intention to notify the child's parent, guardian, or custodian, the department or agency shall make every reasonable effort to notify the child's parent, guardian, or custodian that the interview occurred unless it appears to the department or agency that notifying the child's parent, guardian, or custodian would endanger the child.

* **Sec. 49.** AS 47.17.033 is amended by adding new subsections to read:

(c) An investigation by the department of child abuse or neglect reported under this chapter shall be conducted by a person trained to conduct a child abuse and neglect investigation and without subjecting a child to more than one interview about the abuse or neglect except when new information is obtained that requires further information from the child.

(d) An interview of a child conducted as a result of a report of harm may be audiotaped or videotaped. However, if an interview of a child is to be electronically recorded and the interview concerns a report of sexual abuse of the child, the interview shall be videotaped, except that an interview of a child may not be videotaped if videotaping the interview is impracticable or will, in the opinion of the investigating agency, result in trauma to the child.

(e) An interview of a child that is audiotaped or videotaped under (d) of this section shall be conducted

(1) by a person trained and competent to conduct the interview;

(2) if available, at a child advocacy center; and

(3) by a person who is a party to a memorandum of understanding with the department to conduct the interview or who is employed by an agency that is authorized to conduct investigations.

(f) An interview of a child may not be videotaped more than one time unless the interviewer or the investigating agency determines that one or more additional interviews are necessary to complete an investigation. If additional interviews are necessary, the additional interviews shall be conducted, to the extent possible, by the

1 same interviewer who conducted the initial interview of the child.

2 (g) A recorded interview of a child shall be preserved in the manner and for a
3 period provided by law for maintaining evidence and records of a public agency.

4 (h) A recorded interview of a child is subject to disclosure under the
5 applicable court rules for discovery in a civil or criminal case.

6 * **Sec. 50.** AS 47.18.300(a) is amended to read:

7 (a) The department, in coordination with local public and private agencies,
8 shall design, develop, and implement a foster care transition program to provide
9 support and services to individuals who

10 (1) reach or have reached the age of 16 or older while in state foster
11 care and have not yet reached **23 years of age** [THE AGE OF 21]; and

12 (2) meet other eligibility criteria established by the department under
13 (b) of this section.

14 * **Sec. 51.** The uncoded law of the State of Alaska is amended by adding a new section to
15 read:

16 DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of
17 Aid Rules of Procedure, is amended to read:

18 (c) **Presence of Grandparent or Foster Parent.** A **grandparent of a child**
19 **and the** foster parent or other out-of-home care provider **are** [IS] entitled to be heard
20 at any hearing at which the person is present. However, the court may limit the
21 presence of **these persons in a hearing that has been closed to the public under**
22 **(f)(2) of this rule** [THE FOSTER PARENT OR CARE PROVIDER] to the time
23 during which the person's testimony is being given if **the court determines that such**
24 **a limitation is necessary under the circumstances listed in (f)(2)(C) of this rule** [IT
25 IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO
26 PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE
27 DETRIMENTAL TO THE CHILD].

28 * **Sec. 52.** The uncoded law of the State of Alaska is amended by adding a new section to
29 read:

30 DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of
31 Aid Rules of Procedure, is repealed and reenacted to read:

1 **(f) General Public Access to Hearings.**

2 (1) Except as provided in (2) of this paragraph, and unless prohibited
3 by federal or state statute or regulation, court order, or other court rule, hearings are
4 open to the public.

5 (2) The following hearings are closed to the public:

6 (A) the initial court hearing after the filing of a petition that
7 begins the child-in-need-of-aid case;

8 (B) a hearing following the initial hearing in which a parent,
9 child, or other party to the case is present but has not had an opportunity to
10 obtain legal representation;

11 (C) a hearing, or a part of a hearing, for which the court issues
12 a written order finding that allowing the hearing, or part of the hearing, to be
13 open to the public would reasonably be expected to stigmatize or be
14 emotionally damaging to a child; inhibit a child's testimony in the hearing;
15 disclose matters otherwise required to be kept confidential by state or federal
16 statute or regulation, court order, or court rule; or interfere with a criminal
17 investigation or proceeding or a criminal defendant's right to a fair trial in a
18 criminal proceeding.

19 (3) Before ruling on a request under (2)(C) of this paragraph
20 concerning potential interference with a criminal investigation or proceeding, the court
21 shall give notice and an opportunity to be heard to the state or a municipal agency that
22 is assigned to the criminal investigation or to the prosecuting attorney.

23 (4) If the court closes a hearing to the public under (2)(C) of this
24 paragraph, the court shall close only the portions of the hearing necessary to prevent
25 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
26 is open to the public, the court shall hear in camera any information offered regarding
27 the location, or readily leading to the location, of a parent, child, or other party to the
28 case who is a victim of domestic violence. Access to testimony heard in camera under
29 this subparagraph is limited to the court and authorized court personnel.

30 (5) Notwithstanding any other provision of this rule, the court shall
31 issue an order to prohibit all persons in a hearing open to the public from disclosing to

any person a name, picture, or other information that would readily lead to the identification of a child who is the subject of the proceeding. If a person violates the order, the court may impose any appropriate sanction, including contempt and closure of any further hearings in the proceeding to the person.

(6) A party to the proceeding may move the court to close to the public a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this paragraph. A member of the public may request in writing to be served with a motion filed under this subparagraph. If such a request has been filed in advance of the filing of the motion, the party filing the motion must also serve the member of the public who requested notice under this subparagraph. The court may waive the service required under this subparagraph to a member of the public if a motion to close the hearing, or part of the hearing, is made under this subparagraph immediately before or during the hearing and the court finds that

(A) the need for closure was not reasonably foreseeable sufficiently in advance of the hearing to allow for notice;

(B) there is good cause not to delay the hearing in order to achieve notice, taking into consideration the age of the child and the potential adverse effect that a delay could have on the child; and

(C) whatever notice is practicable under the circumstances has occurred.

* **Sec. 53.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 3, Alaska Child in Need of Aid Rules of Procedure, is amended by adding a new subsection to read:

(j) **Use of Child's Name and Identifying Information Prohibited.** References to a child shall be made using the child's first name only. All identifying information of the child, including the child's last name, address, and the names of the child's immediate family members, shall be protected during the hearing so that only the confidential record contains that information. If a child appears at the hearing, the child shall be located away from view of the public.

* **Sec. 54.** The uncoded law of the State of Alaska is amended by adding a new section to

1 read:

2 DIRECT COURT RULE AMENDMENT. Rule 18(e), Alaska Child in Need
3 of Aid Rules of Procedure, is amended to read:

4 (e) **Trial.** A trial on the petition to terminate parental rights

5 (1) shall be held within six months after the date on which the petition
6 to terminate parental rights is filed, unless the court finds that good cause is shown for
7 a continuance; when [. WHEN] determining whether to grant a continuance for good
8 cause, the court shall take into consideration the age of the child and the potential
9 adverse effect that the delay may have on the child; the [. THE] court shall make
10 written findings when granting a continuance;

11 (2) shall be by jury when a jury trial has been demanded and not
12 waived by a party as provided in Rules 38 and 39, Alaska Rules of Civil
13 Procedure.

14 * **Sec. 55.** The uncoded law of the State of Alaska is amended by adding a new section to
15 read:

16 DIRECT COURT RULE AMENDMENT. Rule 18(g), Alaska Child in Need
17 of Aid Rules of Procedure, is amended to read:

18 (g) **Judgment.** The court shall make findings of fact for matters tried to the
19 court and shall enter an order within 90 days after the last day of trial on the petition
20 to terminate parental rights. The court shall commit the child to the custody of the
21 Department if parental rights are terminated.

22 * **Sec. 56.** The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need
25 of Aid Rules of Procedure, is amended to read:

26 (c) **Child's Name or Picture.** The name or picture of a child who is the
27 subject of a CINA proceeding may not be made available to the public unless
28 authorized by court order accompanied by a written statement reciting the
29 circumstances which support such authorization, or unless to implement the
30 permanency plan for the child after all parental rights of custody have been
31 terminated.

1 * **Sec. 57.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules,
4 is amended to read:

5 (a) **Form.** A consent or relinquishment must be in writing and must include:

6 (1) notice of the person's right to withdraw the consent or
7 relinquishment as provided by paragraphs (g) and (h) of this rule;

8 (2) the address and telephone number of the court in which the
9 adoption or relinquishment proceeding has or is expected to be filed;

10 (3) a statement of the right to counsel as stated in Rule 8;

11 (4) a statement concerning whether or not any visitation rights **or**
12 **other parental privileges** are sought to be retained after the adoption;

13 (5) if a consent, the information required in AS 25.23.060; and

14 (6) if signed by a parent, a statement of whether the parent is a minor.

15 * **Sec. 58.** The uncoded law of the State of Alaska is amended by adding a new section to
16 read:

17 DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules,
18 is amended to read:

19 (g) **Withdrawal of Consent or Relinquishment of a Non-Indian Child.**

20 The parent of a non-Indian child may withdraw a consent or relinquishment by
21 notifying in writing the court, or the person or agency obtaining the consent or
22 relinquishment, within 10 days of the birth or signing of the consent or
23 relinquishment, whichever is later. Notification is timely if received or postmarked on
24 or before the last day of this time period. The parent may move the court to permit
25 withdrawal of the consent or relinquishment after the 10 day period pursuant to
26 AS 25.23.070 for a consent or AS 25.23.180(g) **or AS 47.10.089(h)** for a
27 relinquishment.

28 * **Sec. 59.** The uncoded law of the State of Alaska is amended by adding a new section to
29 read:

30 DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption
31 Rules, is amended to read:

(a) **Voluntary Relinquishment.** A decree terminating parental rights may be entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089. The court shall enter findings of fact which must include a statement concerning whether visitation rights are being allowed under AS 25.23.130(c) or other privileges are being retained under AS 25.23.180 or AS 47.10.089, and whether the time limit for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in the presence of the court, findings also must be entered as to whether the parent understood the consequences of the relinquishment, and whether the relinquishment was voluntarily signed.

In the case of a voluntary relinquishment of parental rights to an Indian child, the court shall make additional findings concerning whether any notice required by Rule 10(e) was timely given; whether the relinquishment was voluntary and in compliance with the requirements of 25 U.S.C. Section 1913; and whether the child's placement complies with the preferences set out in 25 U.S.C. Section 1915 or good cause exists for deviation from the placement preference.

* **Sec. 60.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need of Aid Rules, is amended to read:

(f) **Additional Findings.** In addition to the findings required under paragraph (e), the court shall also make written findings related to

(1) whether the Department has made reasonable efforts required under AS 47.10.086 or, in the case of an Indian child, whether the Department has made active efforts to provide remedial services and rehabilitative programs as required by 25 U.S.C. Sec. 1912(d);

(2) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid; [AND]

(3) if the permanent plan is for the child to remain in out-of-home care, whether the child's out-of-home placement continues to be appropriate and in the best

1 interests of the child; and

2 (4) whether the Department has made reasonable efforts to finalize
 3 the permanent plan for the child.

4 * **Sec. 61.** The uncoded law of the State of Alaska is amended by adding a new section to
 5 read:

6 DIRECT COURT RULE AMENDMENT. Rule 18(d)(1), Alaska Child in
 7 Need of Aid Rules, is amended to read:

8 (d) **Relinquishment.**

9 (1) Notwithstanding other provisions of this rule, the court may
 10 terminate parental rights after a voluntary relinquishment pursuant to AS 47.10.089
 11 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the
 12 requirements set forth in 25 U.S.C. § 1913(c).

13 * **Sec. 62.** The uncoded law of the State of Alaska is amended by adding a new section to
 14 read:

15 INDIRECT COURT RULE AMENDMENT. (a) AS 13.26.064, added by sec. 3 of
 16 this Act, amends Rules 14 and 15, Rules of Probate Procedure, by providing that retained
 17 privileges be set out in the guardianship decree and by providing additional procedures related
 18 to a voluntary relinquishment of parental rights.

19 (b) AS 25.23.180(j) - (o) and AS 47.10.089, added by secs. 5 and 20 of this Act,
 20 amend Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges to be set out
 21 in the relinquishment form and order and by providing additional procedures related to the
 22 relinquishment.

23 (c) AS 25.23.180(k) - (o) and AS 47.10.089(g), (h), and (j), added by secs. 5 and 20
 24 of this Act, amend Rule 13, Alaska Adoption Rules, by authorizing review hearings for
 25 voluntary relinquishments.

26 (d) AS 47.10.080(l), as amended by sec. 14 of this Act, amends Rule 17.2(f), Alaska
 27 Child in Need of Aid Rules, by modifying the grounds for review of a permanent plan.

28 (e) AS 47.10.089, added by sec. 20 of this Act, amends Rule 18, Alaska Child in
 29 Need of Aid Rules, by providing that a relinquishment be in writing, allowing for the
 30 withdrawal of the relinquishment, allowing for the retention of certain privileges, and
 31 authorizing a review hearing before the entry of an adoption or legal guardianship decree.

1 * **Sec. 63.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 INDIRECT COURT RULE AMENDMENT. (a) Sections 11 and 12 of this Act,
4 AS 47.10.080(v), enacted by sec. 16 of this Act, and AS 47.10.088(o), enacted by sec. 19 of
5 this Act, have the effect of changing Rule 3, Alaska Child in Need of Aid Rules of Procedure,
6 by allowing members of the public to attend court hearings except in certain circumstances.

7 (b) AS 47.10.065, enacted by sec. 10 of this Act, has the effect of changing Rule 18,
8 Alaska Child in Need of Aid Rules of Procedure, by providing for a right to a jury trial on a
9 petition to terminate parental rights.

10 (c) Sections 22 and 25 - 30 of this Act have the effect of changing Rule 22, Alaska
11 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential
12 information pertaining to a child, including a child's name or picture to be made public in
13 certain circumstances.

14 * **Sec. 64.** The uncoded law of the State of Alaska is amended by adding a new section to
15 read:

16 TWO-THIRDS VOTE NOT REQUIRED FOR CERTAIN AMENDMENTS.
17 Because the enactment of AS 47.10.065 and the amendments to Rules 18(e) and 18(g), Alaska
18 Child in Need of Aid Rules of Procedure, to the extent that the enactment and amendments
19 provide a right to a jury trial on a petition to terminate parental rights, affect a substantive
20 right, secs. 10, 54, 55, and 63(b) of this Act do not require a two-thirds vote of the legislature
21 to confer the right to a jury trial on a petition to terminate parental rights.

22 * **Sec. 65.** The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 APPLICABILITY. (a) AS 47.10.065, enacted by sec. 10 of this Act, and Rules 18(e)
25 and 18(g), Alaska Child in Need of Aid Rules of Procedure, as amended by secs. 54 and 55 of
26 this Act, apply to petitions to terminate parental rights that are filed on or after the effective
27 date of secs. 10, 54, and 55 of this Act.

28 (b) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure,
29 made by secs. 51 - 53 of this Act, apply to hearings that are conducted on or after the effective
30 date of secs. 51 - 53 of this Act.

31 (c) Sections 11 - 13, 16, 19, 21, 22, 25 - 30, 34, 51 - 53, and 56 of this Act apply to all

1 proceedings and hearings conducted on or after the effective date of those sections.

2 (d) Sections 11, 12, 16, 19, and 22 - 30 of this Act apply to all information, records,
3 and files created on or after the effective date of those sections; however, if a file contains
4 information and records that were created before the effective date of secs. 11, 12, 16, 19, and
5 22 - 30 of this Act, that information and those records retain the confidentiality that they had
6 under the law on the day before the effective date of secs. 11, 12, 16, 19, and 22 - 30 of this
7 Act.

8 * **Sec. 66.** The uncoded law of the State of Alaska is amended by adding a new section to
9 read:

10 TRANSITION: REGULATIONS. The Department of Health and Social Services
11 may proceed to adopt regulations necessary to implement the changes made by this Act. The
12 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
13 effective date of the relevant statutory change.

14 * **Sec. 67.** The uncoded law of the State of Alaska is amended by adding a new section to
15 read:

16 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
17 heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to
18 "Involuntary termination of parental rights and responsibilities."

19 * **Sec. 68.** The uncoded law of the State of Alaska is amended by adding a new section to
20 read:

21 CONDITIONAL EFFECT. (a) That portion of Rule 18(e)(2), Alaska Child in Need
22 of Aid Rules of Procedure, added by sec. 54 of this Act, that reads "and not waived by a party
23 as provided in Rules 37 and 38, Alaska Rules of Civil Procedure," takes effect only if sec. 54
24 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
25 Constitution of the State of Alaska.

26 (b) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure,
27 made by secs. 51 - 53 of this Act, take effect only if secs. 51 - 53 of this Act receive the two-
28 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
29 Alaska.

30 (c) Section 14 of this Act and Rule 17.2(f), Alaska Child in Need of Aid Rules, as
31 amended by sec. 60 of this Act, take effect only if sec. 60 and sec. 62(d) of this Act receive

1 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the
2 State of Alaska.

3 (d) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 61 of this
4 Act, takes effect only if sec. 61 of this Act receives the two-thirds majority vote of each house
5 required by art. IV, sec. 15, Constitution of the State of Alaska.

6 (e) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure,
7 made by sec. 56 of this Act take effect only if sec. 56 of this Act receives the two-thirds
8 majority vote of each house required by Art. IV, sec. 15, Constitution of the State of Alaska.

9 (f) Sections 11 and 12 of this Act, AS 47.10.080(v), enacted by sec. 16 of this Act,
10 AS 47.10.088(o), enacted by sec. 19 of this Act, and secs. 22 and 25 - 30 of this Act, take
11 effect only if secs. 51 - 53, 56, and 63(a) and (c) of this Act receive the two-thirds majority
12 vote of each house as required by art. IV, sec. 15, Constitution of the State of Alaska.

13 (g) Rule 9(a), Alaska Adoption Rules, as amended by sec. 57 of this Act, takes effect
14 only if sec. 57 of this Act receives the two-thirds majority vote of each house required by art.
15 IV, sec. 15, Constitution of the State of Alaska.

16 (h) Rule 9(g), Alaska Adoption Rules, as amended by sec. 58 of this Act, takes effect
17 only if sec. 58 of this Act receives the two-thirds majority vote of each house required by art.
18 IV, sec. 15, Constitution of the State of Alaska.

19 (i) Rule 13(a), Alaska Adoption Rules, as amended by sec. 59 of this Act, takes effect
20 only if sec. 59 of this Act receives the two-thirds majority vote of each house required by art.
21 IV, sec. 15, Constitution of the State of Alaska.

22 (j) AS 13.26.064, added by sec. 3 of this Act, AS 25.23.180(j) - (o), added by sec. 5
23 of this Act, and AS 47.10.089, added by sec. 20 of this Act, take effect only if sec. 62(a) and
24 (b) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
25 Constitution of the State of Alaska.

26 * **Sec. 69.** If, under sec. 68 of this Act, secs. 11 and 12 of this Act, AS 47.10.080(v),
27 enacted by sec. 16 of this Act, AS 47.10.088(o), enacted by sec. 19 of this Act, and secs. 22
28 and 25 - 30 of this Act take effect, they take effect July 1, 2005.

29 * **Sec. 70.** Except as provided in sec. 69 of this Act, this Act takes effect immediately under
30 AS 01.10.070(c).